

PATIENT REQUESTS TO RESTRICT THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION POLICY

RESPONSIBILITY: Privacy Official or Designee(s), all Health Care Professionals

BACKGROUND:

Federal privacy regulations give patients the right to request that the Bureau for Behavioral Health and Health Facilities (BBHBF) restrict the use or disclosure of some or all of their protected health information. However, the regulations make it clear that the BBHBF is not required to agree to any such request except for the case where the service has been paid for in full, and the provider does not have to disclose the information for purposes of treatment or in accordance with law (such as mandatory claim submission provisions under Medicare, Medicaid or state law).

POLICY:

Sometimes, a patient's concerns about confidentiality may interfere with the quality of health care services, for example, if such concerns make it impossible for a physician to obtain all relevant information for the patient, then the BBHBF has the ability to override (or not honor) the restriction on the use or disclosure of the sensitive information. Agreement to the restriction will be at the discretion of the health care professional who is caring for the patient at the time the restriction is requested. However, since such restrictions may interfere with the delivery of health care services, health professionals should agree only when they deem it necessary, in their professional judgment, to obtain information that is essential to the proper care of the patient.

There is one exception to the above and that is when the disclosure is to a health plan for purposes of carrying out payment or healthcare operations (not treatment) and when the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket, in full. When this scenario occurs, the covered entity must accept and process the request. This right extends to situations where a family member or other person, including another health plan, pays for the service on behalf of the individual. It is referred to herein as the "Required Restriction".

Restrictions may only limit the following:

1. Uses and disclosures of PHI for treatment, payment, or health care operations; or
2. Disclosures of PHI to family, friends, or others involved in the member's care or payment for care (see PROVIDING A MEMBER'S MEDICAL INFORMATION TO FAMILY, FRIENDS, OR OTHERS DIRECTLY INVOLVED IN THE MEMBER'S CARE); or
3. Disclosures of PHI without the member's authorization in disaster situations (see DISCLOSURE OF PROTECTED HEALTH INFORMATION IN A DISASTER).

The BBHBF may not agree to restrictions on any uses or disclosures of protected health information as permitted or required by the BBHBF policies, or by applicable law which may include mandatory claim submission provisions under Medicare and similar requirements under Medicaid or state law.

Any restriction on the use or disclosure of PHI, to which the BBHHF agrees, must be fully documented to ensure that all members of the BBHHF workforce are aware of the restriction and abide by it.

Restricted information will not be used or disclosed in violation of the restriction unless such a use or disclosure is necessary for treatment of the patient in an emergency.

A restriction on the use or disclosure of protected health information may be terminated if the patient agrees to the termination, either in writing or orally. The BBHHF may terminate such a restriction without the patient's agreement, but in that case the restriction will still apply to protected health information obtained while the restriction was in effect.

Any restriction on the use or disclosure of protected health information, and the termination of any such restriction, will be fully documented in the patient's medical record. The documentation of an agreed restriction will be kept for as long as it is in force, plus six years or longer if required by state law or regulation. Documentation of termination of a restriction will be kept for at least six years or longer if required by state law or regulation.

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Victoria L. Jones, Commissioner, Bureau for Behavioral Health and Health Facilities